



# MAYOR AND COUNCIL AGENDA

NO. 10 DEPT.: Legal/ Community Planning and Development Services DATE: July 26, 2004

Contact: Deane Mellander, Planner III

**ACTION:** Adoption of Ordinance: Zoning text amendment TXT2003-00204: to amend the Zoning Ordinance to allow new uses in the C-1 Zone, with a limitation of 5,000 square feet per establishment- Auctioneer, and commercial galleries; health and fitness; indoor entertainment establishment, commercial; interior decorator, including the display and sale of furniture; libraries, museums, art galleries; recreational establishment, indoor, commercial; rental halls; and to delete section 25-323; Shulman Rogers Gandal Pordy & Ecker, P.A., applicants.

## ACTION STATUS:

**FOR THE MEETING OF:** 8/2/04

INTRODUCED

PUB. HEARING 3/15/04,  
4/19/04

INSTRUCTIONS 7/12/04

APPROVED

EFFECTIVE

## ROCKVILLE CITY CODE,

CHAPTER 25

SECTION 319, 323

☐ CONSENT AGENDA

**RECOMMENDATION:** Adopt ordinance to approve the text amendment.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other: Retail shoppers

Will allow larger tenant areas up to 5,000 square feet in the C-1 Zone for certain types of uses.

**BACKGROUND:** At present, the C-1 Zone allows for limited retail and service facilities convenient to residential neighborhoods. Offices are limited to no more than 25% of the total floor area, and cannot exceed 4,500 square feet. In addition, the retailing of computers, shoes, variety and dry goods, clothing, music and recordings, jewelry, photographic studios, opticians, private postal services, interior decorators and photo processing are limited to no more than 2,500 square feet for each establishment. The applicant is proposing to allow additional uses in the C-1 Zone with a floor area limitation of 5,000 square feet. These uses are as follows: Auctioneer, and commercial galleries; health and fitness; indoor entertainment establishment, commercial; interior decorator, including the display and sale of furniture; libraries, museums, art galleries; recreational establishment, indoor, commercial; rental halls. Note that interior decorators would be expanded from the current 2,500 square foot limitation.

Staff reviewed the proposed text amendment and recommended modifications to clarify the language and intent of the proposed text amendment. The Planning Commission reviewed the text amendment at their meeting on February 25, 2004. The Commission recommends approval of the text amendment with the modifications recommended by the staff. Their recommendation is attached.

At the end of the public hearing session on March 15, 2004, the Mayor and Council directed staff to provide the nearby civic associations with copies of the proposed text amendment and the Planning Commission's recommendation. These letters were mailed on March 17, 2004. The hearing was continued to April 19 so that any additional testimony could be received into the record.

One issue raised at the March 15 session was whether the proposed text amendment would affect the Rockshire shopping center. The proposed language in section 25-319 (b) reads, in part, as follows: Within a shopping center of 50,000 square feet or more located in the C-1 Zone, the following uses shall occupy not more than 5,000 square feet each: (emphasis added)... Since the Rockshire center is in the R-90 zone, the provision allowing these additional uses does not apply.

The public hearing record closed on May 3, 2004. Other than the applicant's representative, there were only two speakers, who spoke at the March 15 session. William Meyer testified about his concern regarding the targeted nature of the text amendment, and that better notice of the hearing was needed. Also, he recommended that the provision allowing sale of alcoholic beverages be deleted. James Hedley from Rockshire wanted to be assured that the provisions of the text amendment would not apply to the Rockshire shopping center.

At the Discussion and Instruction session on July 12, 2004, the Mayor and Council instructed staff to proceed with preparation of an ordinance for adoption to be introduced at the July 26 meeting. The attached ordinance for adoption includes the necessary changes to the Land Use tables to indicate that certain of the new uses allowed are permitted with conditions.

**PREPARED BY:**

Deane E. Mellander

Deane Mellander, Planner III

7/26/04  
Date

**APPROVE:**

Robert A. Spalding  
Robert A. Spalding, AICP, Chief of Planning

7-26-04  
Date

**APPROVE:**

Arthur D. Chambers  
Arthur D. Chambers, AICP, CPDS Director

7/26/04  
Date

**APPROVE:**

Catherine Tuck Parrish  
Catherine Tuck Parrish, Acting City Manager

7/28/04  
Date

**LIST OF ATTACHMENTS:**

1. Proposed ordinance to adopt the text amendment.
2. Proposed Ordinance as modified by the Planning Commission.
3. Letter of March 17, 2004 to the Fallsridge, Potomac Springs, and Potomac Woods civic associations.
4. Letter of March 15, 2004 from David Freishtat.
5. Planning Commission recommendation.
6. Staff report to the Planning Commission with recommended modifications to the proposed ordinance.
7. Zoning Text Amendment Application.
8. Proposed Ordinance by applicant.
9. Letter of November 18, 2003 from David Freishtat requesting the text amendment.

Ordinance No. \_\_\_\_\_

ORDINANCE: To Grant Text Amendment Application No. TXT2003-00204, as amended, David D. Freishtat, Attorney for Seven Locks Plaza, LC, Applicant

WHEREAS, David D. Freishtat, Attorney for Seven Locks Plaza, LC, 11921 Rockville Pike, Third Floor, Rockville, Maryland 20852, filed Text Amendment Application TXT2003-00204, for the purpose of allowing additional uses in the C-1 Zone; and

WHEREAS, the Mayor and Council of Rockville reviewed the aforesaid application at its meeting of December 8, 2003, and accepted the application for further processing; and

WHEREAS, the Planning Commission reviewed the proposed text amendment application at its February 25, 2004, meeting and recommended approval, with modifications, as set forth in a memorandum dated February 26, 2004; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on March 15, 2004, at 7:00 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on March 15, 2004, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council continued the public hearing until April 19, 2004; and

WHEREAS, on April 19, 2004, said application came on for the continuation of the public hearing; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application, as amended, in the form set forth below would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2003-00204 be, and the same is hereby, granted, as amended, in the form set forth below.

SECTION 1. That Chapter 25 of the Rockville city Code entitled "Zoning and Planning," Section 25-296, "Table of Uses" be amended as follows:

A. That the following uses be designated as permitted in the C-1 Zone:

Residential uses:

p. Private club or lodge

Commercial Office and Industrial Uses:

b. Home and business service

20. Upholstering

d. Medical Services

2. Ambulance service

B. That the following uses be designated as permitted with certain restrictions (P) in the C-1 Zone:

Commercial Office and Industrial Uses:

a. Retail sales and personal services:

1. Retailing of:

A.1. Alcoholic beverages for consumption off the premises

P. Pets

S. Sporting goods

X. Luggage, including repair

7. Auctioneer and commercial gallery

b. Home and business services:

9. Interior decorator

f. Institutional:

1. Libraries, museums and art galleries

i. Assembly and entertainment:

1. Rental halls for meetings and social occasions

2. Indoor entertainment establishments, commercial, except shooting gallery or range

7. Health and fitness establishment
8. Recreational establishment, indoor, commercial, except shooting gallery or range

SECTION 2. That Chapter 25 of the Rockville City Code entitled "Zoning and Planning," Section 25-319, "General and professional offices in C-1 zone" be amended to read as follows:

Sec. 25-319. [General and professional offices in C-1 Zone.] Limitations on certain uses in the C-1 Zone.

(a) General and professional offices including medical and dental clinics shall occupy no more than twenty-five (25) percent of the gross floor area of any building constructed in the C-1 Zone, and in no event more than four thousand five hundred (4,500) square feet of the gross floor area for each tenant of such building.

(b) Retailing of computers and accessories, including repair; auctioneer and commercial gallery; interior decorator; jewelry, including repair; luggage, including repair; music, musical instruments and accessories and recordings; optician; pets; photographic processing; photographic studio; private postal service; shoes; sporting goods; variety and dry goods, and wearing apparel in the C-1 Zone shall occupy not more than two thousand five hundred (2,500) square feet for each establishment. Within a shopping center of fifty thousand (50,000) square feet or more located in the C-1 Zone, the following uses shall occupy not more than five thousand (5,000) square feet each; retailing of alcoholic beverages for consumption off the premises; auctioneer and commercial galleries; health and fitness establishment; indoor entertainment establishments, commercial, except shooting gallery or range; interior decorator, including the display and sale of furniture as an accessory use; libraries, museums, art galleries; recreational establishment, indoor, commercial, except shooting gallery or range; and rental halls for meetings and social occasions.

SECTION 3. That Chapter 25 of the Rockville City Code entitled "Zoning and Planning" be amended by deleting Section 25-323 in its entirety as follows:

[Sec. 25-323. Limitation on certain uses in the C-1 Zone.

Retailing of computers and accessories including repair; shoes; variety and dry goods; wearing apparel; music, musical instruments and accessories and recordings; jewelry, including repair; photographic studio; optician; private postal service; interior decorator; and photographic

process in the C-1 Zone shall occupy not more than two thousand five hundred (2,500) square feet for each establishment.]

Note: [Brackets] indicate material deleted  
Underlining indicates material added

\*\*\*\*\*

I hereby certify that the foregoing is a true and correct copy of an  
Ordinance adopted by the Mayor and Council at its meeting of

\_\_\_\_\_  
Claire F. Funkhouser, City Clerk

**Text Amendment TXT2003-00204 with Modifications Recommended by Planning Commission**

**Section 25-319. [General and professional offices in C-1 Zone.] Limitations on certain uses in the C-1 Zone.**

- (a) General and professional offices including medial and dental clinics shall occupy no more than twenty five (25) percent of the gross floor area of any building constructed in the C-1 Zone, and in no event more than four thousand five hundred (4,500) square feet of the gross floor area for each tenant of such building.
- (b) Retailing of computers and accessories, including repair; auctioneer and commercial gallery; interior decorator; jewelry, including repair; luggage, including repair; music, musical instruments and accessories and recordings; optician; pets; photographic processing; photographic studio; private postal service; shoes; sporting goods; variety and dry goods, and wearing apparel in the C-1 Zone shall occupy not more than two thousand five hundred (2,500) square feet for each establishment. [In all contiguous C-1 Zones] Within a shopping center of 50,000 square feet or more located in the C-1 Zone, the following uses shall occupy not more than 5,000 square feet each: retailing of alcoholic beverages for consumption off the premises; auctioneer and commercial galleries; health and fitness establishment; Indoor entertainment establishments, commercial, except shooting gallery or range; interior decorator, including the display and sale of furniture as an accessory use; libraries, museums, art galleries; recreational establishment, indoor, commercial, except shooting gallery or range; and rental halls for meetings and social occasions.

**Sec. 25-323. [Limitations on certain uses in the C-1 Zone.] Reserved.**

[Retailing of computers and accessories including repair; shoes; variety and dry goods; wearing apparel; music, musical instruments and accessories and recordings; jewelry, including repair; photographic studio; optician; private postal service; interior decorator; and photographic process in the C-1 Zone shall occupy not more than two thousand five hundred (2,500) square feet for each establishment.]

# Proposed Changes to Land Use Tables

|   | R-E | R-S | R-150 | R-75 | R-60 | R-40 | R-30 | R-20 | R-H | RPC | RPR | C-1 | C-2 | I-1 | I-2 | I-3 | I-4 | O-1 | O-2 | O-3 | TCO-1 | TCO-2 | TCM-1 | TCM-2 | C-T |
|---|-----|-----|-------|------|------|------|------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|-------|-------|-------|-----|
| RESIDENTIAL USES<br>...   |     |     |       |      |      |      |      |      |     |     |     |     |     |     |     |     |     |     |     |     |       |       |       |       |     |
| p. Private club or lodge.<br>...  | S   | S   | S     |      |      |      |      |      |     | P   |     | P   | P   | S   |     |     | P   | (P) |     |     |       |       | P     | P     |     |
| COMMERCIAL OFFICE AND INDUSTRIAL USES<br>a. Retail sales and personal services.<br>1. Retailing of:<br>A. Alcoholic beverages for consumption on the premises of any restaurant or delicatessen.<br>A.1. Alcoholic beverages for consumption off the premises.<br>... |     |     |       |      |      |      |      |      |     | P   |     | P   | P   | S   |     | S   | P   | P   |     |     | P     | P     | P     |       |     |
| P. Pets.<br>...   |     |     |       |      |      |      |      |      |     | P   |     | (P) | P   | P   |     |     |     |     |     |     |       | P     | P     | P     |     |
| S. Sporting goods.<br>...   |     |     |       |      |      |      |      |      |     | P   |     | (P) | P   |     |     |     |     | (P) |     |     |       | P     | P     | P     |     |
| X. Luggage, including repair.<br>...  |     |     |       |      |      |      |      |      |     | P   |     | (P) | P   |     |     |     |     | (P) |     |     | P     | P     | P     | P     |     |
| 7. Auctioneer and commercial gallery.<br>...  |     |     |       |      |      |      |      |      |     | P   |     | (P) | P   | P   |     |     |     | (P) |     |     | P     | P     | P     | P     |     |
| b. Home and business services.<br>...   |     |     |       |      |      |      |      |      |     |     |     |     |     |     |     |     |     |     |     |     |       |       |       |       |     |
| 9. Interior decorator.<br>...   |     |     |       |      |      |      |      |      |     | P   |     | (P) | P   | P   |     |     | P   | (P) |     |     |       | P     | P     | P     |     |
| 20. Upholstering.<br>...  |     |     |       |      |      |      |      |      |     | P   |     | P   | P   | P   |     |     |     |     |     |     |       |       |       |       |     |
| d. Medical services.<br>...   |     |     |       |      |      |      |      |      |     | P   |     | P   | P   | P   |     |     |     |     |     |     |       |       |       |       |     |
| 2. Ambulance service.<br>...  |     |     |       |      |      |      |      |      |     | P   |     | P   | P   | P   |     |     |     |     |     |     |       |       |       |       |     |
| f. Institutional.<br>1. Libraries, museums, art galleries.<br>...   |     |     |       |      |      |      |      |      |     | P   |     | (P) | P   |     |     |     | P   | P   | S   |     |       | P     | P     | P     | S   |
| i. Assembly and entertainment<br>...  |     |     |       |      |      |      |      |      |     |     |     |     |     |     |     |     |     |     |     |     |       |       |       |       |     |
| 1. Rental halls for meetings and social occasions.<br>2. Indoor entertainment establishments, commercial, except shooting gallery or range.<br>...  |     |     |       |      |      |      |      |      |     | P   |     | (P) | P   |     |     | S   | S   |     |     |     |       | P     | P     | P     |     |
| 7. Health and fitness establishment.<br>8. Recreational establishment, indoor, commercial, except shooting gallery or range.<br>...   |     |     |       |      |      |      |      |      |     | P   |     | (P) | P   | (P) |     |     | P   | P   |     |     |       | P     | P     | P     |     |





March 17, 2004

Dear Civic Association President:

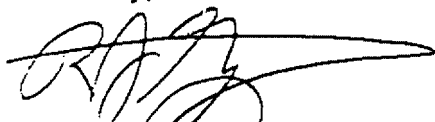
A proposed zoning ordinance text amendment, TXT2003-00204, has been filed with the City. This text amendment would add additional uses in the C-1 (Local Commercial) Zone, and allow some uses to occupy up to 5,000 square feet of floor area. The text amendment applies only to shopping centers in the C-1 Zone exceeding 50,000 square feet of floor area. At present, the only local shopping center that meets this criteria is the Potomac Woods Shopping Center at Seven Locks Road and Fortune Terrace.

The Planning Commission considered this text amendment at its meeting on February 25, 2004 and recommended approval with the modifications recommended by the planning staff. The Commission's recommendation is attached to this letter.

The Mayor and Council opened the public hearing on this text amendment at their meeting on March 15, 2004. Testimony was taken from two individuals and the applicant. In order to be assured that all interested parties be given the opportunity to submit testimony, the Mayor and Council directed staff to contact surrounding civic associations with the background information. The hearing will be reconvened on April 19. Any testimony may be submitted by letter or in person at the April 19 session or prior to April 20, 2004 when the public record will be closed.

Attached for your information is the original letter of request from the applicant, the staff report to the Planning Commission, and the Planning Commission's recommendation to the Mayor and Council. Written testimony should be submitted to the City Clerk's office. If you wish to sign up to speak at the April 19 session, please contact the City Clerk's office at 240-314-8281. If you have questions regarding the text amendment or the process, please contact Deane Mellander of the planning staff at 240-314-8224 or by e-mail at: [dmellander@rockvillemd.gov](mailto:dmellander@rockvillemd.gov).

Sincerely,

  
Robert J. Spalding, AICP  
Chief of Planning

cc: Mayor and Council  
Catherine Tuck Parrish

Attachments

City of Rockville  
Maryland Avenue  
Rockville, Maryland  
20850-2364  
[www.rockvillemd.gov](http://www.rockvillemd.gov)

Community Planning and  
Development Services  
240-314-8200  
TTY 240-314-8137  
AX 240-314-8210

Historic Preservation Office  
240-314-8230

Information Services Division  
240-314-8240

Long Range Planning  
Division  
240-314-8200

Legal Services Division  
240-314-8220

Equal Housing/Housing  
Division  
240-314-8200

MAYOR  
Larry Giammo

COUNCIL  
Robert E. Dorsey  
John F. Hall, Jr.  
Susan R. Hoffmann  
Anne M. Robbins

City Manager  
Catherine Tuck Parrish

CITY CLERK  
Lore F. Funkhouser

CITY ATTORNEY  
Paul T. Glasgow

# SHULMAN ROGERS GANDAL PORDY & ECKER, P.A.

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Karl L. Ecker\*  
David A. Pardy\*  
David D. Freishtat  
Marcin P. Schaffer  
Christopher C. Roberts  
Jeffrey A. Shane  
Edward M. Hanson, Jr.  
David M. Kochanski  
James M. Kefauver  
Robert B. Canter  
Daniel S. Krakower  
Kevin P. Kennedy  
Alan B. Sternstein  
Nancy P. Regelin

Samuel M. Spirtos\*  
Martin Levine  
Worthington H. Talcott, Jr.\*  
Fred S. Sommer  
Morison A. Faller  
Alan S. Tilles  
James M. Hoffman  
Michael V. Nakamura  
Jay M. Eisenberg\*  
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Karl J. Prodi, Jr.\*  
Timothy Dugan\*  
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Gregory D. Grant\*  
Rebecca Oshway  
Ashley Joel Gardner  
Michael J. Froehlich  
William C. Davis, III  
Patrick M. Martyn  
Sandy David Baron  
Christine M. Sorge  
Michael L. Kabik  
Jeffrey W. Rubin  
Simon M. Nadler  
Scott D. Muscles  
Karl W. Means  
Debra S. Friedman\*  
Matthew M. Moore\*  
Daniel H. Handman

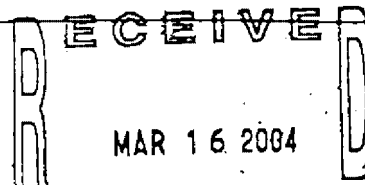
Eric J. von Vorys  
Michelle R. Curtis\*  
Gary I. Horowitz  
Jason M. Kerben  
Mark S. Guberman  
Cari A. Frye\*  
Sarit Keinan  
Heather L. Howard  
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Deborah L. Moran  
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Mimi L. Magyar  
*Maryland and D.C.*  
*except as noted:*  
\* Virginia also  
\* Maryland only  
\* D.C. only  
† Retired

Writer's Direct Dial Number:

301-230-5206

dfreishtat@srgpe.com



March 15, 2004

COMMUNITY PLANNING  
AND DEVELOPMENT SERVICES

The Honorable Larry Giammo, Mayor  
City of Rockville  
Maryland Avenue at Vinson  
Rockville, MD 20850

Re: Proposed Zoning Text Amendment TXT 2003-00204; to allow additional uses in the C-1 zone (Local Commercial), with a limitation of 5,000 square feet per establishment

Our File No. 070375.00003

Dear Mr. Giammo:

This Firm represents Seven Locks Plaza, LC, the owner of Potomac Woods Plaza shopping center, a C-1 zoned retail center located on Seven Locks Road. This center is the largest C-1 zoned shopping center in Rockville, comprising 53,828 gross square feet of retail space. It is the only C-1 center in the City that exceeds 50,000 square feet of floor area.

The Potomac Woods Center, due to its size and the dynamics of retailing has suffered large vacancies for the past number of years. The uses permitted in the C-1 are very limited and reflect the market of ten to twenty years ago. The current market for local commercial retail has changed and the zoning ordinance list of permitted uses must also change. Making the requested changes will help to bolster the economic health of this center, and as a result, this area of the City.

Working with your planning staff, the applicant has suggested that the proposed text change will more accurately reflect the needs of this type of retail center, with an expanded list of permitted uses, but limiting the size of each use to no greater than 5,000 square feet of gross leasable area. The usual store size in a local commercial center will range from 3,500 square feet to 4,800 square feet. The new uses that are most likely to be located in the local center will be health and fitness, interior decorator, indoor entertainment. There have been inquiries about a catering or meeting location, sometimes in conjunction with a restaurant. These types of uses would only be successful if the local community supported them, supporting the

SHULMAN  
ROGERS  
GANDAL  
PORDY &  
ECKER, PA

The Honorable Larry Giammo

March 15, 2004

Page 2

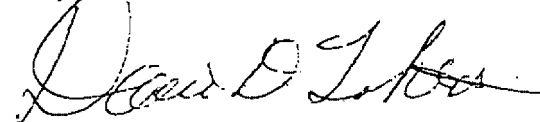
principle that these uses would be appropriate when their size is limited.

Adoption of this change in the language and permitted uses in the C-1 zone will allow this center to be able to compete for more uses, which would otherwise be allowed in the nearby centers located in the County.

We want to thank the Mayor and Council for introducing the text amendment. We note that the Planning Commission and the planning staff have recommended approval of the text change. We hope that you will adopt the change and allow this property to be a more beneficial member of the Rockville business community.

My best regards.

Very truly yours,



David D. Freishtat

DDF/grs

cc: Members of the City Council  
Mr. Robert Spalding  
Mr. Arthur Chambers ✓



City of Rockville

## MEMORANDUM

February 26, 2004

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment TXT2003-00204, to Allow Additional Uses in the C-1, Local Commercial, Zone, with a Limitation of 5,000 square feet per establishment.

At its meeting on February 25, 2004, the Planning Commission considered proposed Zoning Text Amendment No. TXT2003-00204. This text amendment would permit additional uses in the C-1 Zone in shopping centers with a floor area of 50,000 square feet or greater. Certain of these uses are limited to a maximum floor area of 5,000 square feet.

The staff report recommended approval of the text amendment with modifications to clarify the language and conform it to the terminology in the zoning ordinance. The text amendment does allow for some greater flexibility in the provision of uses in local commercial shopping centers, while maintaining limits on the size of individual tenants.

All of the planning commissioners recommend approval of the text amendment as modified. In supporting the text amendment, Commissioner Hilton advised the applicants to involve the neighboring community in the selection of tenants to assure their suitability to serve the neighborhood.

On a motion by Commissioner Mullican, seconded by Commissioner Britton, the Commission recommends by a vote of 6 to 0 that this text amendment be approved.

DM



City of Rockville

**MEMORANDUM**

February 19, 2004

TO: City of Rockville Planning Commission

FROM: Deane Mellander, Planner III *DM*

VIA: Bob Spalding, AICP, Chief of Planning

SUBJECT: Proposed Zoning Text Amendment TXT2003-00204; To allow additional uses in the C-1, Local Commercial, Zone with a limitation of 5,000 square feet per establishment.

**BACKGROUND**

The applicant represents the owners of the Seven Locks Plaza shopping center, located on Seven Locks Road. In requesting the text amendment, the applicants have cited the fact that the shopping center suffers from a high vacancy rate which is caused, at least in part, by the limitations the code imposes on the types of uses and their sizes in the C-1 Zone. The Mayor and Council accepted the application for filing at their meeting on December 8, 2003. The public hearing on this text amendment will be held on March 15, 2004.

**ANALYSIS**

The statement of the applicant, Attachment C, sets forth their rationale for the amendment. The text amendment would allow the following new uses in the C-1 Zone:

The Retailing of:

Alcoholic beverages for consumption off the premises.

Pets

Sporting goods.

Luggage, including repair.

The following retail sales and personal services:

Auctioneer and commercial gallery

Interior decorator, including display and sale of furniture.  
Private club or lodge.  
Rental halls for meetings and social occasions.  
Indoor entertainment establishments, commercial, except shooting gallery or range.  
Health and fitness establishment.  
Recreational establishment, indoor, commercial, except shooting gallery or range.  
Upholstering.  
Medical and dental clinics.  
Ambulance service.  
Libraries, museums, and galleries.

All of these new uses, with the exception of alcoholic beverage sales, private clubs, and upholstery, and ambulance service, would be subject to the size limitations proposed in the text amendment. Note that in the applicant's submittal, full-service restaurants, including drive-through, were listed in the land use tables as being allowed by special exception. The applicant does not wish to pursue this use in the C-1 Zone.

The text amendment proposes to eliminate Section 25-323, "Limitations of certain uses in the C-1 Zone", and fold the size restrictions into Section 25-319. This section, currently titled "General and professional offices in C-1 Zone", is proposed to be renamed "Limitations on certain uses in the C-1 Zone." Subsection (a) currently restricts office uses to no more than 25 percent of the gross floor area of the building, with a maximum of 4,500 gross square feet for all office uses in the building. The text amendment modifies this provision by allowing any one tenant to occupy up to 4,500 square feet of the building.

A new subsection (b) is proposed to be added, which provides restriction on the size of certain uses (including the new ones to be added) allowed in the C-1 Zone. The current size restrictions are retained at 2,500 square feet for all of the restricted uses. In addition, the new uses proposed for inclusion in the C-1 Zone are allowed a maximum of 5,000 square feet each if the shopping center is 50,000 square feet or larger.

The added language in subsection (a), denoting the floor area "for each tenant" is essentially a clarification, since the existing language doesn't specify a limitation on tenants, only on the total amount of floor area that can be devoted to office uses.

Subsection (b) takes the restrictions on sizes of certain uses from Section 25-323 and folds them into this new language. This language restricts to 2,500 square feet the space allowed for the following uses:

Retailing of:

Computers and accessories including repair.  
Shoes.  
Variety and dry goods.

- Wearing apparel.
- Music, musical instruments and accessories and recordings.
- Jewelry, including repair.
- Photographic studio.
- Optician.
- Private postal service.
- Interior decorator.
- Photographic processing.

Under the proposed text amendment these restrictions remain in place, no matter the size of the shopping center. The following uses would be allowed to utilize up to 5,000 square feet of space in a shopping center of 50,000 square feet or larger:

- Auctioneer and commercial galleries.
- Health and fitness establishment.
- Indoor entertainment establishment, commercial.
- Interior decorator, including the display and sale of furniture.
- Libraries, museums, art galleries.
- Recreational establishment, indoor, commercial.
- Rental halls for meetings and social occasions.

For clarification, indoor commercial entertainment establishments is not a defined use, but has been interpreted to mean facilities that could feature items such as video game arcades, pinball machines, and similar uses. A recreational establishment, indoor commercial is defined, as follows: "An activity of an athletic nature for which a fee is paid which takes place inside a building, including baseball batting in cages, basketball, golf driving practice, gymnastics, miniature golf, racquetball, rock climbing, skiing practice, swimming, tennis, volleyball, bowling, billiards or other athletic activity." The rental hall use is essentially a catering facility.

Staff points out that the Seven Locks Center, at 53,828 square feet, is the only shopping center in the C-1 Zone that meets or exceeds the 50,000 square foot threshold. The next largest one is the Woodley Gardens Center, which is 25,200 gross square feet. The Rockshire Center is 56,915 square feet, but it is in the R-90 Zone. Uses authorized in the C-1 are allowed within a PRU. However, the language of the text amendment restricts the added uses only to contiguous C-1 Zones of 50,000 square feet or more. Thus, the staff opinion is that this provision as submitted and with staff recommendations will have no effect on commercial uses in PRU developments with an underlying residential base zone.

As submitted, the staff finds that there are some inconsistencies in the language that need to be clarified. Also, the changes to the land use tables needs to be revised for clarity and consistency.

The intent of the provision in subsection (b) seems to be that the provisions apply to shopping centers with 50,000 or more square feet of gross floor area. The proposed language reads: "In all contiguous C-1 Zones of 50,000 square feet or more...", which implies land area.

Discussions with the applicants have always been in reference to building area. Therefore staff recommends that the language at the beginning of the second sentence in subsection (b) be revised to read as follows: "Within a shopping center of 50,000 square feet or more located in the C-1 Zone, the following uses..." The applicant is also proposing to modify the terminology of interior decorator. Currently, the code allows an interior decorator with maximum floor area of 2,500 square feet. The proposal is to modify the term to read: Interior decorator, including the display and sale of furniture. This would allow the interior decorator to not only display materials, but sell them off the floor. Staff is concerned that this could easily turn into a furniture sales store, rather than a interior decorator showroom. Staff therefore recommends that this term be modified to keep the sales portion subordinate to the decorator use by modifying the use to read: Interior decorator, including the display and sale of furniture as an accessory use. This would only be within this provision in the C-1 Zone. The entry in the land use tables is not amended, since the category is allowed in other commercial and industrial zones without restriction. The staff is has also proposed modifications to the language in Sec. 25-319 to make the terminology of the uses consistent with the entries in the land use tables. Staff also has a concern that allowing the sale of alcoholic beverages without a size limitation may be inconsistent with neighborhood-oriented retail. Staff therefore recommends that the sale of alcoholic beverages be subject to the 5,000 square foot size limitation.

The land use table submitted with the text amendment does not reflect the amendments that were made to the tables by text amendment TXT2003-00196. It also needs some formatting changes to reflect the intent of the application. The staff has prepared the recommended amendments to the text amendment which are shown on Attachment D.

## RECOMMENDATION

The staff finds that the proposed text amendment will provide added flexibility to certain retail centers in the C-1 Zone, which will assist in maintaining the viability of these centers. Staff therefore recommends approval of proposed text amendment TXT2003-00204 with the changes recommended by the staff as shown below.

Text Amendment TXT2003-00204 with Modifications Recommended by Staff.

Section 25-319. [General and professional offices in C-1 Zone.] Limitations on certain uses in the C-1 Zone.

- (a) General and professional offices including medial and dental clinics shall occupy no more than twenty five (25) percent of the gross floor area of any building constructed in the C-1 Zone, and in no event more than four thousand five hundred (4,500) square feet of the gross floor area for each tenant of such building.
- (b) Retailing of computers and accessories, including repair; auctioneer and commercial gallery; interior decorator; jewelry, including repair; luggage, including repair; music,



musical instruments and accessories and recordings; optician; pets; photographic processing; photographic studio; private postal service; shoes; sporting goods; variety and dry goods, and wearing apparel in the C-1 Zone shall occupy not more than two thousand five hundred (2,500) square feet for each establishment. [ In all contiguous C-1 Zones ] Within a shopping center of 50,000 square feet or more located in the C-1 Zone, the following uses shall occupy not more than 5,000 square feet each: retailing of alcoholic beverages for consumption off the premises; auctioneer and commercial galleries; health and fitness establishment; Indoor entertainment establishments, commercial, except shooting gallery or range; interior decorator, including the display and sale of furniture as an accessory use; libraries, museums, art galleries; recreational establishment, indoor, commercial, except shooting gallery or range; and rental halls for meetings and social occasions.

**Sec. 25-323. [Limitations on certain uses in the C-1 Zone.] Reserved.**

[Retailing of computers and accessories including repair; shoes; variety and dry goods; wearing apparel; music, musical instruments and accessories and recordings; jewelry, including repair; photographic studio; optician; private postal service; interior decorator; and photographic process in the C-1 Zone shall occupy not more than two thousand five hundred (2,500) square feet for each establishment.]



Page 7  
February 19, 2004

/dem

Attachments: 1. Proposed Text Amendment from Applicant  
2. Text Amendment Application  
3. Applicant's Statement

APPLICATION TO THE CITY OF ROCKVILLE  
FOR A TEXT AMENDMENT  
TO THE ZONING AND PLANNING ORDINANCE

THIS APPLICATION MUST BE TYPEWRITTEN OR PRINTED AND NOTARIZED AND SUBMITTED IN DUPLICATE TO THE CITY CLERK FOR FILING. ALL ITEMS MUST BE COMPLETED AND THE FILING FEE MUST ACCOMPANY THIS APPLICATION.

|   |                                      |
|---|--------------------------------------|
|   | <u>DO NOT WRITE IN THIS SPACE</u>    |
| David D. Freishtat<br>Shulman, Rogers, Gandal, Pordy & Ecker, P.A.        | Application No. <u>TXT03-00204</u>   |
| Name of Applicant<br>Attorney for Seven Locks Plaza LC                    | Filing Date <u>November 19, 2003</u> |
|   | Filing Fee <u>\$2,500.00</u>         |
| Address<br>11921 Rockville Pike, Third Floor<br>Rockville, Maryland 20852 | Public Hearing Date <u>3/15/03</u>   |
| Telephone Number<br>301-230-5206  | Decision/Date _____                  |

APPLICATION IS HEREBY MADE WITH THE ROCKVILLE MAYOR AND COUNCIL FOR APPROVAL OF A CHANGE IN THE TEXT OF THE ZONING AND PLANNING ORDINANCE OF ROCKVILLE, MARYLAND.

Page 2047 Article 1X Section 25-395(28)(a)

FROM: Which reads as follows:

See Attached

TO: Read as follows:

By: *David D. Freishtat*  
Signature of Applicant

Subscribed and sworn before me this 18 day of November, 2003

My Commission Expires: \_\_\_\_\_  
*Jenny E. Kamachatis*  
Notary Public

JENNY E. KAMACHATIS  
Notary Public State of Maryland  
My Commission Expires March 15, 2005

## PROPOSED TEXT AMENDMENT

## AMENDMENTS TO THE C-1 ZONE; ADDITIONAL USES AND EASING OF RESTRICTIONS

## Section 25-319

~~General and professional offices in C-1 Zone~~ Limitation on Certain Uses in the C-1 Zone

(a) General and professional offices including medical and dental clinics shall occupy no more than twenty five (25%) percent of the gross floor area of any building constructed in the C-1 zone, and in no event more than four thousand five hundred (4,500) square feet of the gross floor area for each tenant of such building.

(b) Retailing of computers and accessories including repair; auctioneer and commercial gallery; interior decorator; jewelry, including repair; luggage; music, musical instruments and accessories and recordings; optician; pets, photographic processing, photographic studio; private postal service; shoes; sporting goods; variety and dry goods; and wearing apparel in the C-1 Zone shall occupy not more than two thousand five hundred (2,500) for each establishment. In all contiguous C-1 Zones of 50,000 square feet or more, the following uses shall occupy no more than 5,000 feet each: auctioneer and commercial galleries; health and fitness; indoor entertainment establishment, commercial, interior decorator, including the display and sale of furniture; libraries, museums, art galleries; recreational establishment, indoor, commercial; and rental halls.

## Section 25-323

~~Limitations on certain uses in the C-1 Zone~~

~~—Retailing of computers and accessories including repair, shoes, variety and dry goods, wearing apparel, music, musical instruments and accessories and recordings, jewelry, including repair, photographic studio, optician, private postal service, interior decorator, and photographic processing in the C-1 Zone shall occupy not more than two thousand five hundred (2,500) square feet for each establishment.~~

RESERVED

| COMMERCIAL, OFFICE AND INDUSTRIAL USES  |  | C-1 | C-2 | I-1 | I-2 | I-3 | I-4 | O-1 | O-2 | O-3 | TCO-1 | TCO-2 | TCM-1 | TCM-2 | RPC | RPR |
|---|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|-------|-------|-------|-----|-----|
| a. Retail sales and personal services   |  |     |     |     |     |     |     |     |     |     |       |       |       |       |     |     |
| 1. Retailing of:  |  |     |     |     |     |     |     |     |     |     |       |       |       |       |     |     |
| A-1 Alcoholic beverages for consumption off the premises  |  | P   | P   | P   |     |     |     |     |     |     |       | P     | P     | P     | P   |     |
| P. Pets   |  | (P) | P   | P   |     |     |     |     |     |     |       | P     | P     | P     | P   |     |
| S Sporting Goods  |  | (P) | P   |     |     |     |     | (P) |     |     |       | P     | P     | P     | P   |     |
| X. Luggage, including repair  |  | (P) | P   |     |     |     |     | (P) |     |     |       | P     | P     | P     | P   |     |
| 7. Auctioneer and commercial gallery  |  | (P) | P   | P   |     |     |     | (P) |     |     |       | P     | P     | P     | P   |     |
| A. Restaurant, full service or fast food freestanding or in multi-tenant buildings, with drive-through or drive through only. |  | S   | S - |     |     |     |     |     |     |     |       | P     | P     | P     | P   | S   |
| 9. Interior decorator, including display and sale of furniture  |  | (P) | P   | P   |     |     | P   | (P) |     |     |       | P     | P     | P     | P   |     |
| 3. Private club or lodge  |  | P   | P   | S   |     |     | S   | (P) |     |     |       | P     | P     | P     | P   |     |
| 4. Rental halls for meetings and social occasions   |  | (P) | P   |     |     | S   | S   |     |     |     |       | P     | P     | P     | P   |     |
| 5. Indoor entertainment establishments, commercial, except shooting gallery or range  |  | (P) | P   |     |     |     | S   |     |     |     |       | P     | P     | P     | P   |     |
| 10. Health and fitness establishment  |  | (P) | P   |     |     | P   | P   | P   |     | P   |       | P     | P     | P     | P   |     |
| 11. Recreational establishment, indoor, commercial, except shooting gallery or range  |  | (P) | P   | (P) |     |     | S   |     |     |     |       | P     | P     | P     | P   |     |
| 20. Upholstering  |  | P   | P   | P   |     |     |     |     |     |     |       | P     | P     | P     | P   |     |

[illegible]

# SHULMAN ROGERS CANDAL ORDY & ECKER, P.A.

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Maryland and D.C.  
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• Maryland only  
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• Retired  
• Federal practice only

Writer's Direct Dial Number:

301-230-5206

dfreishtat@srgpe.com

November 18, 2003

The Honorable Larry Giammo  
Mayor  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Request for Text Amendment; Changes to C-1 Zone  
Our File No. 070375.00003

Dear Mr. Giammo:

This Firm represents Seven Locks Plaza, LC, the owner of the shopping center located at Seven Locks Road and Fortune Terrace. The shopping center is in the C-1 zone. Of the five shopping centers in the City, zoned C-1, it is the largest.

The C-1 zone is relatively restrictive and the center has been suffering with a relatively high vacancy rate, due primarily to the limited number of permitted uses allowed in the zone. The market difference between the local shopping centers, typified by the C-1 zone, and the larger centers, which serve a regional population is characterized not by the limited uses, but more by the limited size of the individual tenants, and the size of their stores.

Our client has been working with members of the planning staff, in reviewing the permitted uses, and deciding which uses would be appropriate for the C-1 zone, but limited in size. Enclosed is a draft text amendment, which has been reviewed by your planning staff, and modified to reflect their concerns, and which we believe will allow the existing local commercial centers to serve their community, but not provide competition for the regional centers. The concern was that the scope of the center and its uses be consistent with a local shopping experience and not allow certain uses to expand beyond their local nature. As a result, the size of certain uses is proposed to be limited, so that they can exist in a local center, but only as a small operation, consistent with the purpose of the zone. Also enclosed is a check in the amount of \$2,500 and the affidavit.



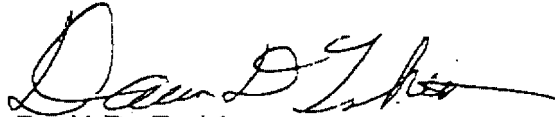
SHULMAN  
ROGERS  
GANDAL  
FORDY &  
ECKER PA.

The Honorable Larry Giammo  
November 18, 2003  
Page 2

We request that the Council approve the introduction of this text amendment. It should not be a burden on the staff, since they have already reviewed it and the changes they suggested have been incorporated in this draft.

My best regards.

Very truly yours,



David D. Freishtat

DDF/grs

cc: Mr. Robert Spalding  
Mr. Marc Solomon  
Mr. Bart Eisner